

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amarylis Rivera	Team: Team # 6	CCRB Case #: 201309483	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/05/2013 8:30 PM	Location of Incident: Allen Street and Delancey Street	Precinct: 07	18 Mo. SOL 4/5/2015	EO SOL 4/5/2015	
Date/Time CV Reported Sat, 10/05/2013 9:17 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 10/09/2013 3:19 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jeoffrey Clarke	23805	950212	005 PCT
2. POM Dikensy Moussignac	05819	949372	005 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Dikensy Moussignac	Force: PO Dikensy Moussignac used physical force against § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

Case Summary

On October 5, 2013, § 87(2)(b) filed this complaint with IAB via telephone. The complaint was received by the CCRB via IAB log number 13-42775 on October 9, 2013 (*encl. 4A-C*). On October 5, 2013, § 87(2)(b)'s cab driver was stopped on Allen Street and Delancey Street in Manhattan. The following allegations resulted:

- **Allegation A- Force: PO Dikensy Moussignac used physical force against** § 87(2)(b)

§ 87(2)(g)

- § 87(4-b) § 87(2)(g)

On October 18, 2013, mediation was offered to § 87(2)(b) but she chose to proceed with an investigation.

Results of Investigation

Civilian Statements

Complainant/ Victim: § 87(2)(b)

- *On the date of incident, § 87(2)(b) was a § 87(2)(b)-old white female, standing at 5'8" tall, weighing 125 pounds with blonde hair and green eyes.* § 87(2)(b)

CCRB/IAB Statements:

On October 5, 2013, § 87(2)(b) filed this complaint with IAB via telephone and provided a statement (*encl. 6A*). On October 18, 2013, § 87(2)(b) provided a telephone statement (*encl. 7A*) and a verified statement on October 29, 2013 (*encl. 8A-G*). § 87(2)(g)

On October 5, 2013, § 87(2)(b) was the passenger of a cab from Elizabeth Cab Company. She was returning to her residence in Brooklyn from Newark Airport. At approximately 8:30 p.m., § 87(2)(b)'s cab driver, § 87(2)(b) made a left turn onto Delancey Street. § 87(2)(b) was stopped by two police officers on Allen Street and Delancey Street in Manhattan. The investigation identified the officers as PO Jeffrey Clarke and PO Dikensy Moussignac, of the 5th Precinct. § 87(2)(b) observed two marked cars with flashing lights parked approximately 7 to 8 feet away.

PO Clarke approached the driver's side window and requested § 87(2)(b)'s driver's license and vehicle registration. § 87(2)(b) informed PO Clarke that she had already paid her cab fare in Newark, and wanted to get home. PO Clarke informed her that if she did not want to wait, she

may take another taxi. § 87(2)(b) was seated in the rear passenger seat, behind the front passenger seat, and read PO Clarke's badge.

The rear passenger window was lowered, and PO Moussignac approached the window to speak to § 87(2)(b) with a raised voice. PO Moussignac asked § 87(2)(b) if she had a problem with officers. § 87(2)(b) responded that she had no problem, and wanted to get home. PO Moussignac was standing in between the front passenger and rear passenger doors. § 87(2)(b) then slightly opened the rear passenger door with her right arm and moved her right leg out of the car. The rear passenger door gently bumped into PO Moussignac. PO Moussignac then slammed the rear passenger door onto § 87(2)(b)'s right leg. § 87(2)(b) was not looking at PO Moussignac, because she was looking down at her leg. However, she stated that he may have slightly turned to his side and pushed the door with one of his shoulders, or faced the rear passenger door and used both hands to push the door. She knew that he intentionally slammed the door, because the speed that the door was moved indicated that he may have used a little weight to try to close it.

§ 87(2)(b) pulled her right leg inside of the car, immediately. She could not recall if PO Moussignac closed the door or if she did, because she still had her right hand on the door, and was shaking. PO Moussignac asked § 87(2)(b) if she intended to assault a police officer. § 87(2)(b) responded that all she wanted to do was remove herself from the unfolding situation.

PO Moussignac stepped aside and § 87(2)(b) exited the cab. She walked towards the trunk to retrieve her luggage. PO Moussignac also walked towards the rear of the cab and stood facing § 87(2)(b) approximately seven to twelve inches away. § 87(2)(b) observed PO Moussignac's badge as he spoke to her with raised voice and "puffed out" chest.

PO Moussignac asked her if she was going to file a complaint, and that he placed his life on the line every day as an NYPD officer for § 87(2)(b). § 87(2)(b) took a step back and told him that she just came off a flight at Newark Airport and wanted to return home, even if it was in a different cab. PO Moussignac then informed her that she should have informed him of that reason earlier. He took a few steps back and instructed PO Clarke to let § 87(2)(b) go, who was not issued a summons. The entire incident with the police officers occurred within four minutes.

§ 87(2)(b) returned back to the rear passenger seat, and began crying. She felt pain on her right shin. She lifted her jeans and observed that her shin had swollen approximately the size of a grapefruit. It was red and scraped. She did not obtain any medical attention nor did she take any photographs of the injury. The swelling went down after three days.

Witness: § 87(2)(b)

On October 29, 2013, § 87(2)(b) provided the CCRB with a telephone statement (*encl. 9A*).

On October 5, 2013, at approximately 8:30 p.m., § 87(2)(b) drove § 87(2)(b) to her residence from Newark Airport. § 87(2)(b) made a left onto Delancey Street in Manhattan. § 87(2)(b) was stopped by two police officers, PO Jeffrey Clarke and PO Dikensy Moussignac, of the 5th Precinct. § 87(2)(b) observed the officers standing outside of two parked police cars with flashing lights. The officers were stopping vehicles that made left turns on Delancey Street.

PO Clarke spoke with § 87(2)(b) and PO Moussignac spoke with § 87(2)(b). § 87(2)(b) was seated in the right rear passenger seat. PO Clarke requested § 87(2)(b)'s driver's license and vehicle registration. § 87(2)(b) complied. § 87(2)(b) did not observe what occurred with § 87(2)(b) and PO Moussignac nor could he hear what their conversation. PO Clarke remained standing next to the driver's side, with § 87(2)(b)'s driver's license and vehicle registration at hand. PO Clarke did not issue § 87(2)(b) a summons nor did he run a check on his documents. He returned the documents and allowed § 87(2)(b) to leave. During his interaction with PO Clarke, § 87(2)(b) exited the cab, but when he was allowed to leave she reentered cab, and he took § 87(2)(b) home. § 87(2)(b) informed § 87(2)(b) that she was going to file a complaint and requested his phone number. The incident was approximately ten to fifteen minutes.

NYPD Statements:

Subject Officer: PO DIKENSY MOUSSIGNAC AND PO JEOFFREY CLARKE

- *At the time of the incident, PO Moussignac was a § 87(2)(b)-old black male. He stands 5'4" tall, weighs 170 pounds, and has black hair and brown eyes.*
- *At the time of the incident, PO Clarke was a § 87(2)(b)-old black male. He stands 5'7" tall, weighs 210 pounds, and has black hair and brown eyes.*
- *On October 5, 2013, PO Moussignac worked from 10:00 a.m. to 1:45 a.m. (October 6, 2013) From 10:00 a.m. PO Moussignac worked funeral escort, and from 1:23 p.m. to 1:45 a.m., PO Moussignac worked traffic enforcement and pedestrian safety (overtime). He was dressed in uniform, did not have a partner, and was assigned to marked car, RMP# 4147. PO Clarke worked alone from 3:00 p.m. and 11:35 p.m. He was assigned to traffic enforcement working within the confines of the 5th Precinct. He was dressed in uniform and assigned to marked car, RMP# 5677.*

Memo Books

PO Moussignac and PO Clarke do not have any entries in their memo books regarding this incident (*encl. 10A-K and 12A-F*).

CCRB Statements

On June 3, 2014, PO Moussignac and PO Clarke were interviewed at the CCRB (*encl. 11A-B and 13A-B*).

On October 5, 2013, PO Moussignac was assigned to traffic enforcement, after he had completed his assignment of funeral escort. PO Clarke was also assigned to traffic enforcement. Although neither of them had an assigned partner, PO Clarke stated that at the time of the incident he was located on Delancey Street and Chrystie Street in Manhattan, and PO Moussignac was parked across the street from him. PO Moussignac indicated that he was not working with or near PO Clarke.

PO Moussignac and PO Clarke did not have an independent recollection of the incident. A synopsis was provided to both officers, including the allegation, and a photograph of § 87(2)(b) was also presented. Neither officer recalled the incident. Both officers stated that they had issued several summonses at the location, but could not recall if they had encountered or issued any summonses to any cabs. PO Clarke stated that the majority of his summonses were for making a wrong turn, but if he had stopped a car for a traffic violation, he would not allow them to leave without issuing a summons for the supposed violation.

PO Moussignac denied having an encounter with a white female with blonde hair, and slamming a door onto the leg of any passenger. PO Clarke did not observe any interaction in which a door was slammed onto an individual's leg or observed PO Moussignac partake in any such action.

Civilians Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- This is the first CCRB complaint filed by [§ 87(2)(b)] (*encl. 2A*).

Subject Officer CCRB History

- PO Dikensy Moussignac has been a member of the service for three years and there are three substantiated CCRB allegations against him (*encl. 1A*).
 - In CCRB case number 201108190, the substantiated allegations pleaded against PO Moussignac were for a Question, Frisk and Search. The NYPD issued PO Moussignac with instructions for the Question and Frisk, but did not discipline PO Moussignac for the search.
- PO Geoffrey Clarke has been a member of the service for two years and there are no substantiated CCRB allegations against him (*encl. 1B*).

Conclusion

Identification of Subject Officers

In her initial complaint with IAB, [§ 87(2)(b)] provided the names of the officers she had encountered during the incident. However, she identified the officer who had slammed the car door on her right leg as officer "Monstrigu." She informed the IAB intake officer that the spelling of his name may be incorrect, but identified his partner as PO Clarke.

[§ 87(2)(b)] provided the a physical description of the officer and described PO "Monstrigu" as a black male, dark complexion, medium build, in his late thirties to early forties, standing approximately 5'6" tall, dressed in uniform. She described PO Clarke as black male, medium complexion, heavy frame, very little hair, in his late thirties to early forties, standing approximately 5'10" tall, and dressed in uniform.

The incident location borders the 5th and the 7th Precincts (*encl. 3A*). A CTS database search was conducted for officers within the two precincts with the surnames of "Clarke" or "Monstrigu." The search revealed that there were no officers with the surname "Clarke" assigned to the 7th Precinct; however, there was only one officer with the surname "Clarke" assigned to the 5th Precinct, PO Geoffrey Clarke. There were no officers in the NYPD with surname "Monstrigu," but in the 5th Precinct there was an officer with surname "Moussignac," PO Dikensy Moussignac. Both officers generally matched the descriptions provided by [§ 87(2)(b)].

The roll call for the 5th Precinct identified that PO Moussignac was assigned to traffic enforcement with PO Clarke; however, the roll call stated that PO Moussignac worked on the previous tour as a funeral escort (*encl. 15A-G and 16A-H*).

During their CCRB interviews, PO Moussignac confirmed that he had worked as a funeral escort, but later was reassigned to traffic enforcement, and around the time of the incident he was working in the vicinity of the incident location. In addition, PO Clarke confirmed the above

information and stated that he was also in near the incident location during the time the incident had occurred, across the street from PO Moussignac.

§ 87(2)(g)

Allegation Not Pleaded

§ 87(2)(g)

Investigative Findings and Recommendations

Allegation A- Force: PO Dikensy Moussignac used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b)'s cab driver, § 87(2)(b) was stopped for a traffic violation at the incident location, and as PO Clarke interacted with § 87(2)(b) § 87(2)(b) interacted with PO Moussignac. However, whether PO Moussignac used any force against § 87(2)(b) remains in dispute.

§ 87(2)(b) alleged that PO Moussignac slammed the cab door against her right leg, as she attempted to step out of the cab to leave. As a result § 87(2)(b) sustained a welt on her right shin. § 87(2)(b) the only witness, did not observe § 87(2)(b)'s interaction with PO Moussignac, because was having a separate interaction with PO Clarke. In addition, § 87(2)(b) made no mention of any injuries § 87(2)(b) had sustained as a result of the encounter. Both PO Moussignac and PO Clarke had no independent recollection of the incident and denied that PO Moussignac slammed any vehicle door onto an individuals' leg. § 87(2)(b) did not receive any medical attention nor did she take any photographs of the injury.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date